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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,080	02/28/2001	Andreas Flohr	CM1905Q/MH	6376

27752 7590 01/14/2003

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,080

Applicant(s)

FLOHR, ANDREAS

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 23 October 2002 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant relies on the implication that the limitation "effective size" further defines the structure of the instant invention over the prior art, but fails to state what the novel feature defined by the limitation "effective size" may be. Ouellette et al. (4,637,819) disclose apertures having a size of greater than  $0.2 \text{ mm}^2$ , and this size permits fluid to effectively pass through the apertures. The apertures of Ouellette et al. therefore have an effective size of greater than  $0.2 \text{ mm}^2$ .

With respect to Applicant's question concerning rejection of all dependant claims under 35 U.S.C. 112, second paragraph, it is noted that all limitations of the base claim are part of each dependant claim. Therefore, the rejected language of the base claim is included in each dependant claim, and all dependant claims stand rejected as well.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels et al. (6,319,239) and further in view of Ouellette et al. (4,637,819).

Daniels discloses all aspects of the claimed invention, but remains silent as to the area of the apertures. Daniels discloses an absorbent article, as shown in figure 1, comprising a topsheet 38 having a first zone and a second zone. The first zone is defined by the outer row of bonds 56, and the second zone comprises the remainder of the topsheet 38. Both the first and second zones have areas of bonds 52, the bonded area of the second zone being greater than the bonded area of the first zone, as shown in figure 1. The first zone has an effective open area of at least 10 percent, as disclosed in column 5, lines 63-65. The topsheet 38 is constructed from an apertured material, a suitable material being disclosed by Ouellette, as described by Daniels in column 5, lines 14-22.

Ouellette discloses an apertured nonwoven web suitable for use as a topsheet, as described in column 7, lines 1-3. The apertures have a diameter of about 0.66 mm, as disclosed in column 14, lines 60-65, and therefore have an area of greater than 0.2 mm<sup>2</sup>.

Daniels discloses the apertured web of Ouellette is a suitable material to use as the topsheet 38, and therefore it would be obvious to one of ordinary skill in the art at the time of invention to construct the absorbent article of Daniels with the apertured web material of Ouellette.

With respect to claim 2, the first zone comprises a central area of the topsheet 38, and the second zone comprises an outer zone.

With respect to claim 3, the second zone comprises a pair of outer zones, one on either lateral side of the absorbent article.

With respect to claim 4, the central, or first, zone has an effective open area of at least 15 percent, as disclosed in column 5, lines 63-65.

With respect to claim 5, Ouellette discloses apertures with an area of  $0.34 \text{ mm}^2$ . It would have been an obvious matter of design choice to make the area of the apertures at least  $1.0 \text{ mm}^2$ , since the applicant has not disclosed the size of the apertures solves any stated problem or serves any particular purpose. It appears the invention would perform equally well with apertures of  $1.0 \text{ mm}^2$  or  $0.34 \text{ mm}^2$ .

With respect to claims 6-9, the outer zone has a bonded area of between 5 to 15 percent, as disclosed in column 9, lines 54-55.

With respect to claim 10, Daniels discloses an absorbent article comprising the bonded, apertured web as a topsheet 38.

With respect to claim 11, Daniels discloses a backsheet 40 and an absorbent core 42.

With respect to claim 12, Daniels, in view of Ouellette, discloses bonding a web with a greater area of bonding in the outer zone than in the central zone, an aperturing the central zone.

With respect to claim 13, Daniels discloses a central zone having an effective open area of at least 10 percent, as described in column 5, lines 63-65.

With respect to claim 14, Ouellette discloses apertures having an area of at least  $0.2 \text{ mm}^2$ , as described in column 14, lines 60-65.

Art Unit: 3761

With respect to claim 15, Daniels discloses an outer zone having a bonded area of at least 12 percent, as described in column 9, lines 54-55.

With respect to claim 16, Daniels discloses an outer zone having a bonded area of 15 percent, as described in column 9, lines 54-55.

With respect to claim 17, Daniels discloses a web comprising a pair of outer zones running laterally on opposite sides of the central region, as shown in figure 1.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for

Art Unit: 3761

the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

*CLA*

cla

December 31, 2002



WEILUN LU  
SUPERVISORY PATENT EXAMINER  
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